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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JESSE CALDERON,

Defendant and Appellant.

B237160

(Los Angeles County
Super. Ct. No. BA382443)

APPEAL from a judgment of the Superior Court of Los Angeles County, Ronald H. Rose, Judge. Affirmed as modified with directions.

Alan Stern, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General and Blythe J. Leszkay, Deputy Attorney General, for Plaintiff and Respondent.

A jury convicted defendant, Jesse Calderon, of two felony weapons violations. First, defendant was convicted of carrying a loaded firearm in a vehicle where the weapon was not registered to him. (Pen. Code,¹ § 12031, subds. (a)(1) & (a)(2)(F) (Stats. 1999, ch. 571, § 3, pp. 3963-3964), now § 25850, subds. (a) & (c)(6).) Second, defendant was convicted of carrying a concealed firearm in a vehicle where the weapon was not registered to him. (§ 12025, subds. (a)(2) & (b)(6) (Stats. 1999, ch. 571, § 2, p. 3961), now § 25850, subds. (a) & (c)(6)).) He was sentenced to two years to be served in the county jail. (§ 1170, subd. (h).) We will resolve several sentencing related issues.

We appointed counsel to represent defendant on appeal. After examination of the record, counsel filed an “Opening Brief” in which no issues were raised. Instead, counsel requested we independently review the entire record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. (See *Smith v. Robbins* (2000) 528 U.S. 259, 271-284.) On March 28, 2012, we advised defendant he had 30 days within which to personally submit any contentions or arguments he wishes us to consider. No response has been received.

First, the trial court orally imposed only one \$40 court security charge (§ 1465.8, subd. (a)(1)) and one \$30 court facilities assessment. (Gov. Code, § 70373, subd. (a)(1).) However, the charge and assessment should have been imposed on each of the two counts. (*People v. Castillo* (2010) 182 Cal.App.4th 1410, 1415, fn. 3 [Gov. Code, § 70373, subd. (a)(1)]; *People v. Schoeb* (2005) 132 Cal.App.4th 861, 865-866 [§ 1465.8, subd. (a)(1)]; see *People v. Alford* (2007) 42 Cal.4th 749, 758, fn. 6.) And the charge and assessment should not have been stayed as to count 2 under section 654, subdivision (a) (*People v. Woods* (2010) 191 Cal.App.4th 269, 272-273; see *People v. Cattaneo* (1990) 217 Cal.App.3d 1577, 1589). Therefore, the oral pronouncement of judgment must be modified to impose \$60 in court security charges and \$80 in court facilities assessments. The abstract of judgment *correctly* so reflects.

¹ All further statutory references are to the Penal Code except where otherwise noted.

Second, the abstract of judgment states the trial court imposed a Health and Safety Code section 11372.5, subdivision (a) drug laboratory fee. No such fee could be imposed as the weapons charges are not enumerated in Health and Safety Code section 11372.5, subdivision (a). And no such fee was orally imposed. Thus, the abstract of judgment must be corrected to strike the reference to the Health and Safety Code section 11372.5, subdivision (a) drug laboratory fee. (*People v. Mesa* (1975) 14 Cal.3d 466, 471; *People v. Hartsell* (1973) 34 Cal.App.3d 8, 14, disapproved on another ground in *People v. Karaman* (1992) 4 Cal.4th 335, 348-350.) Third, the abstract of judgment must be corrected to indicate defendant was convicted by a jury rather than pursuant to a plea.

The oral pronouncement of judgment is modified to impose \$80 in court security charges and \$60 in court facilities assessments. The judgment is affirmed in all other respects. Upon remittitur issuance, the abstract of judgment must be corrected to indicate defendant was convicted by a jury and to strike the purported imposition of a \$50 drug laboratory fee. The clerk of the superior court shall deliver a copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation.

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TURNER, P. J.

We concur:

ARMSTRONG, J.

KRIEGLER, J.